Arent Fox

April 27, 2010

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
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Washington, DC 20554

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Re: *Written Ex Parte Communication*, WC Docket 07-245

Dear Ms. Dortch:

On April 26, 2010, Larry Coleman, Bill Coleman, Paul Bradshaw and Walter Tustin of Sunesys, LLC ("Sunesys"), and the undersigned counsel for Sunesys, had meetings with (i) Jennifer Schneider, Senior Policy Advisor and Legal Advisor for Broadband, Wireline and Universal Service for Commissioner Copps; (ii) Christine Kurth, Policy Director & Wireline Counsel for Commissioner McDowell; and (iii) Marvin Sacks, Ian Dillner, Jeremy Miller, Jonathan Reel, Wesley Platt and Al Lewis of the Wireline Competition Bureau.

During these meetings, Sunesys discussed, consistent with the National Broadband Plan, the urgent need for the Commission to impose timelines for the issuance of pole attachment licenses, and Sunesys recommended that the Commission impose rules consistent with the following: (i) a utility should have 14 days to notify an attacher of any material deficiencies in the application itself; (ii) the timelines for survey and make-ready work should be similar to those imposed in New York; (iii) an attacher should be permitted to use an approved contractor to perform the work if the deadlines are not met; (iv) a utility should be required to identify at least three approved contractors in each jurisdiction in which it owns poles; and (v) a utility (or an approved contractor) shall have the right to move an existing attachment to enable the placement of a new attachment if the existing attacher does not move its own attachment, so long as the existing attacher receives at least 20 days notice.

In addition, Sunesys recommended that the Commission also impose rules consistent with the following: (i) upon request, a utility shall be required to promptly provide proof of make-ready costs and an itemized cost accounting of such costs; (ii) an attacher shall not be responsible for any portion of the make-ready costs that are attributable to the correction of pre-existing pole violations, or any portion of the make-ready expense not necessary to ensure compliance with all laws and the NESC; (iii) a utility may not require an attacher to comply with a standard set by the utility relating to safety that is in addition to the NESC or any applicable laws unless the

utility receives express approval from the Commission or its state public utility commission to do so; (iv) a utility shall grant an attacher's request for boxing of poles or extension arms if for the class of pole involved, the utility itself uses, or the utility permits other third-parties to use, boxing or extension arms for such poles, unless the utility can prove that such use would violate the NESC (or with respect to boxing of poles, such boxing cannot safely be accessible by bucket trucks, ladders or emergency equipment).

Sunesys further discussed that the regulations should provide that where the dispute concerns costs (e.g., make-ready costs), the work will continue, and the utility shall be responsible for meeting all deadlines, as long as the attacher pays all undisputed amounts owed, and at least half of any disputed amounts invoiced (overpayments are, of course, subject to refund). We also discussed the need for a shorter deadline with respect to the response to a pole attachment complaint where a pole attachment license has not been issued during the pendency of the dispute.

Finally, with respect to rates, we discussed the need for all cable and telecom providers to pay the same pole attachment rates (or as close to the same as possible). In that regard, we discussed that the Commission should forbear from requiring telecommunications providers from paying the telecom rate (and permit them to pay the cable rate) if the Commission has the power to so act. If not, the Commission should expeditiously reconsider its analysis with respect to calculating costs under Section 224(e).

Respectfully submitted,

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Counsel for Sunesys, LLC